05-51 BUSTILLO V. JOHNSON

DECISION BELOW: UNPUBLISHED

LOWER COURT CASE NUMBER: 042023

QUESTIONS PRESENTED

- 1. Whether, contrary to the International Court of Justice's interpretation of the Vienna Convention on Consular Relations, April 24, 1963,21 U.S.T. 77, 100-101, state courts may refuse to consider violations of Article 36 of that treaty because of a procedural bar or because the treaty does not create individually enforceable rights.
- 2. Whether, in deciding if improperly withheld exculpatory evidence might have affected the outcome of the original trial and thus is "material" under Brady v. Maryland, 373 U.S. 83 (1963), a court may (a) refuse to consider the strength or weakness of the prosecution's evidence at the original trial; (b) analyze the potential effect of the withheld evidence on an item-by-item basis, rather than in the aggregate; (c) substitute its judgment for the likely effect on the jury by attempting to reconcile the exculpatory evidence with the original verdict; and (d) give determinative weight to the testimony of trial counsel that he was unsure whether the improperly withheld evidence would have affected the outcome of the trial.
- 3. Whether the Supreme Court of Virginia's refusal to hear petitioner's Brady claim on the ground that he did not file the transcripts of a hearing held during habeas corpus proceedings is an adequate and independent state ground of decision that precludes this Court's review of such claim.

Cert. Granted 11/7/05

Limited to Question 1 presented by the petition.

Consolidated with 04-10566 and a total of one hour allotted for oral argument.

04-10566 SANCHEZ-LLAMAS V. OREGON

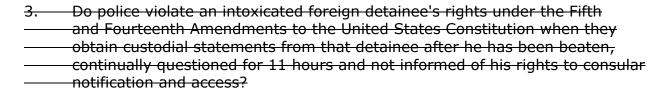
DECISION BELOW: 108 P.3d 573 (Ore. 2005)

LOWER COURT CASE NUMBER: 996212FE

QUESTIONS PRESENTED

- 1. Does the Vienna Convention convey individual rights of consular notification and access to a foreign detainee enforceable in the Courts of the United States?
- 2. Does the state's failure to notify a foreign detainee of his rights under the Vienna Convention result in the suppression of his statements to

police?



Cert. Granted 11/7/05 Limited to Questions 1 and 2 presented by the petition. Consolidated with 05-51 and a total of one hour allotted for oral argument.